

VERMONT SUPERIOR COURT

**BRIAN J. GREARSON
CHIEF SUPERIOR JUDGE**

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MEMO: July 28, 2016

TO: Joint Legislative Oversight Committee

FROM: Brian J. Grearson, Chief Superior Judge

SUBJECT: Electronic monitoring – Act 125; comments re existing program and considerations relating to expansion:

Overall the two judges who have been involved with the existing program in Windham county report satisfactory results in reducing the need for multiple court hearings regarding detained individuals (modification of bail and enforcement of monitoring conditions). They both report that the program is “well run, and that the screening is effective and appropriate” and has allowed for “supervision of defendants in the community who would not have been released otherwise while awaiting trial”.

In light of those comments, the following are significant considerations that would be applicable to the expansion beyond Windham county as contemplated by the legislation:

- 1) under the heading Preliminary Requirements, it states that the “participant must pass an assessment determining the level of supervision to be provided.” I assume this is now done by the Electronic Monitoring Staff in Windham county. The document does not otherwise define the nature of the assessment and or who will perform it beyond Windham county. If the plan is to expand into a number of counties (and eventually statewide) it would seem that it should be a standardized assessment conducted by individuals qualified to do such assessments (for example ORAS is being used by Pre Trial Services program and DOC utilizes a different assessment tool, either of which may be appropriate);
- 2) under the sections labeled “Application Receipt” (the final approval of an applicant, section 6; the appeal from a denial of an application, sections 8 and 9) and “Participant Selection” (the exceptions to non-acceptance sections 2 and 3) represent decisions to be made by the “Sheriff of the jurisdictional county” on a case by case basis. Without further definition of either the criteria or the process relating to such decision making, it appears this could lead to 14 different determinations of eligibility and or disqualification dependent on the final approval and complete discretion of each Sheriff; and
- 3) the new legislation provides for the use of electronic monitoring in cases where bail is not imposed or imposed in addition to bail, which could expand the use of electronic monitoring beyond that of the incarcerated population. While such conditions would be welcome options for pre-trial release, the enforcement of such conditions would call for a different process than contemplated by the existing program which calls for an automatic return to DOC custody upon termination from the monitoring program.

I will be available to respond to other questions committee members may have regarding the existing program, the proposed expansion and or the above comments. Thank you.